

August 6, 1997

PUBLIC UTILITIES COMMISSION  
Inquiry into the Effects  
of Electric Restructuring on  
Contracts between Qualifying  
Facilities and Electric Utilities

NOTICE OF INQUIRY

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**I. Summary**

In this Order, we initiate an inquiry to address issues and identify the scope of a rulemaking on provisions governing power purchases by electric utilities from qualifying facilities (QFs) that may require revision as a consequence of restructuring the electric industry.

**II. Background**

Chapter 36 of the Commission's rules, Cogeneration and Small Power Production, sets forth the criteria for small power producers and cogenerators to qualify as QFs, avoided cost calculation procedures, and general guidelines for arrangements between electric utilities and QFs. On May 29, 1997, the Governor signed into public law, "An Act to Restructure the State's Electric Industry" (Act). P.L. 1997, ch.316. The Act directs the Commission to develop rules on how certain rates and terms in existing QF contracts would function after March 1, 2000.<sup>1</sup> Specifically, the Act directs the Commission to address short-term energy only (STEO) rates, contractual terms that relate to long-term avoided costs, and methods to establish any contractual provision that restructuring may render impractical or impossible to perform.<sup>2</sup> See sections 6, 7 and 8 of the Act. In this same rulemaking, the Commission may also amend Chapter 36 in other respects to ensure its overall consistency with the provisions and policies in the Act.

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<sup>1</sup> Section 9 of the Act eliminates the requirement going forward that electric utilities enter contracts to purchase power from QFs.

<sup>2</sup> Section 5 of the Act requires that no contract executed as of March 1, 2000 between a QF and an electric utility may be abrogated as a result of any provision of this Act.

### III. Issues to be Addressed

We invite interested persons to comment on the following issues or on issues not referenced here, but which the commenter believes the Commission should address in this proceeding.

#### A. Establishment of STEO Rates

The Commission currently sets STEO rates periodically pursuant to section 3(B) of Chapter 36. These rates are the basis for prices paid by electric utilities for certain short-term energy purchases from QFs. Because many existing QF contracts with terms beyond March 1, 2000, rely on Commission approved STEO rates we must adapt the methods and procedures in our existing rule to address conditions likely to exist after restructuring. We ask parties to comment generally on how the Commission should set STEO rates, and to respond to the following questions:

1. What generally accepted and publicly available market price indicators or indices should the Commission use to establish STEO rates? If not currently known, how should the Commission determine what indicators to use? Should these indicators reflect historic or forecast prices, and why?
2. To what extent should the Commission rely on historic market prices to establish rates for future purchases?
3. What Maine-specific data about market prices should the Commission ensure be available? Is using the standard offer price reasonable? If not, must the Commission collect and make publicly available individual or aggregate data on individual contracts? Please describe how this could be done and comment on the feasibility of doing so.
4. Is it feasible for the Commission to adopt an indexing mechanism to streamline its setting of STEO rates? Please describe and comment on ways this could be done.
5. Please comment on how the factors affecting rates for purchases of energy should be quantified and applied. See Chapter 36, §4(C)(7).

B. Establishment of Long-term Avoided Costs

1. What existing contracts and contractual language reference long-term avoided cost during the post March 1, 2000 period?
2. In establishing long-term avoided costs as required by Section 8 of the Act, to what extent should the Commission rely on assumptions and methodology used in prior avoided cost proceedings?
3. To what extent are historic methodologies and historic expectations about future costs and events relevant? To what extent should the Commission rely on current projections of market prices? How should these be developed? To what extent should the Commission rely on actual market prices?
4. Please comment on whether the Commission can adopt generic rules for long-term avoided costs, or whether it must consider contract-specific language.
5. Please comment on how the factors affecting rates for purchases of energy and capacity should be quantified and applied. See Chapter 36, §4(C)(8).

C. Other Revisions to Chapter 36

1. Should the Commission delete or revise other provisions of Chapter 36? Please identify.
2. Should the Commission add new provisions to Chapter 36? Please identify.
3. Should the Commission revise provisions of §4(C)(4), Net Energy Billing? If so, please describe.

D. Other Substantive/Contract Issues

1. What other issues should the Commission address in this rulemaking?
2. Are there contract terms (other than those above) that ought to be specifically addressed?

E. Processes to Resolve Contract-related Issues that may Arise in the Future

1. What factors and provisions should the Commission consider in developing rules to resolve contractual issues that may arise in the future?

In addition, utilities that have existing QF contracts with provisions applicable after March 1, 2000 which may require revision as a result of restructuring are requested to file such contracts (e.g., STEO provisions, avoided cost provisions).

Interested persons may participate in this inquiry by filing a letter stating their interest in this proceeding no later than August 15, 1997. Such letter should be addressed to Dennis L. Keschl, Administrative Director and include the docket number of this proceeding, Docket No. 97-497. The Commission will then issue a service list. All subsequent filings must be served to all interested persons on the service list. Interested persons may file substantive comments by August 25, 1997, and file responsive comments by September 8, 1997. We will proceed with a formal rulemaking after reviewing the comments. If necessary, we may also convene a technical conference or issue written requests for further information. We will initiate a formal rulemaking before November 1, 1997.

Accordingly, we

O R D E R

1. That an inquiry shall be opened as described in the body of this Notice;
2. That this Notice shall be sent to all electric utilities in the State of Maine;
3. That this Notice shall be sent to all known small power producers and cogenerators in the State of Maine;
4. That this Notice shall be sent to the service list of electric restructuring, Docket No. 95-462;
5. That this Notice shall be sent to the service lists of Docket No. 92-345; Docket No. 95-052; and Docket No. 97-116; and
6. That this Notice of inquiry will also be posted on the Commission's website, <http://www.state.me.us/mpuc>.

Dated at Augusta, Maine, this 6th day of August, 1997.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONER VOTING FOR:      Welch  
   Nugent  
   Hunt